

# EXHIBIT 4

## REMOTE DEPOSITION BY VIDEOCONFERENCE

## MARGARET WALLACE BROWN

**TAKEN ON**

WEDNESDAY, MAY 11, 2022

10:30 A.M.

7                   **THE COURT REPORTER:** And then I'd also like to  
8 stipulate for the record that the remote affirmation and remote  
9 testimony will be administered and recorded by myself, a  
10 professional digital recorder, and that all present agree.

11 The testimony will be transcribed and certified. Ms.  
12 Matias, on behalf Pacific Legal do you agree?

13 MS. MATIAS: Yes, I agree.

14                   **THE COURT REPORTER:** All right. And then Mr. Amis,  
15 on behalf of the City of Houston, do you agree?

16 | MR. AMIS: Yes.

17                   **THE COURT REPORTER:** Okay. Fantastic. All right.  
18 The time is 10:33. Ms. Wallace Brown, would you please raise  
19 your right hand.

20 Do you affirm under the penalty of perjury that you  
21 are Margaret Wallace Brown and that the testimony you're about  
22 to give is the truth, the whole truth, and nothing but the  
23 truth?

24 | THE WITNESS: Yes.

25 | THE COURT REPORTER: All right. Counsel, for the

1 record, would you please state your name and whom you  
2 represent.

3 **MS. MATIAS:** Dawna Matias, M-a-t-i-a-s, representing  
4 plaintiff Anthony Barilla.

5 **MR. AMIS:** Brian Amis, representing the City of  
6 Houston.

7 **THE COURT REPORTER:** All right. You may proceed.

8 **MARGARET WALLACE BROWN**, having been first duly sworn, was  
9 examined, and testified as follows:

10 **EXAMINATION**

11 **BY MS. MATIAS:**

12 Q Good morning, Ms. Wallace Brown.

13 A Good morning.

14 Q My name is Dawna Matias, and I'm with colleagues  
15 Anastasia Bowden and Joshua Polk, and we represent the  
16 plaintiff Anthony Barilla in this case.

17 And, first, I'd like to go over just some preliminary  
18 matters before we get started with more substantiate questions.

19 Okay?

20 A Yes.

21 Q Will you please state your name and spell it for the  
22 record?

23 A Margaret Wallace Brown, M-a-r-g-a-r-e-t, W-a-l-l-a-c-  
24 e, B-r-o-w-n.

25 Q Okay. Thank you. And are you familiar with this

1 Q Okay. And can we agree to call that part of the  
2 busking ordinance the permit requirement?

3 A Yes.

4 Q Okay. Are you employed by the City of Houston,  
5 defendant City of Houston?

6 A Yes.

7 Q In what department?

8 A Planning and development department.

9 Q Okay. And what does planning and development -- what  
10 does the planning and development department do, what are their  
11 responsibilities?

12 A Our responsibilities include managing the land  
13 development ordinances for the city of Houston and our  
14 extraterritorial jurisdiction, we manage the geographic  
15 information system for the city of Houston, we do  
16 transportation planning, neighborhood planning such as  
17 character preservation tools, historic preservation, and we  
18 manage the tower ordinance and a variety of other projects as  
19 assigned by the mayor.

20 Q Okay. And what is your formal title or position?

21 A I'm director of the department.

22 Q Okay. Can you describe your duties in this position?

23 A I manage our team of approximately 90 people who the  
24 -- to do all of the responsibilities that I mentioned earlier,  
25 yeah, Lord knows --

1       **Q      Okay.**

2           A      -- just what it is. I mean, I manage the whole  
3 operation so that includes, you know, day to day operations, as  
4 well as speaking to city council and, you know, everything a  
5 director does.

6       **Q      Okay. Any other duties?**

7           A      As part of my duties, and I am secretary to both the  
8 Planning Commission and the Historic and Archaeological  
9 Commission -- well, actually, all three, The Tower Commission  
10 also.

11       **Q      Okay. And how long have you held this position?**

12       A      I was promoted interim director in 2018 and made  
13 permanent director in 2019.

14       **Q      Okay. Did you hold any other position in the  
15 department prior to this?**

16       A      Yes, I've been with the city for 35 years all in this  
17 department starting as a project manager in 1986 and having  
18 progressively advanced jobs until I received this one.

19       **Q      Okay. And did you hold any other position in -- with  
20 the city of Houston prior to your work in the planning  
21 department -- planning and development?**

22       A      So for a period of about six years -- six months in  
23 1991, the department which used to include community  
24 development, block current activities, when that was split from  
25 the planning department I was temporarily -- so for a period of

1 about six months I worked for the community development  
2 department that was split off from planning, but then very  
3 quickly came back to planning --

4 **Q Okay. And what was your --**

5 A -- and nothing else besides that.

6 **Q Oh, okay. Sorry. I apologize, I talked over you.**

7 A That's okay.

8 **Q What was your job experience prior to employment with**  
9 **the city of Houston?**

10 A I worked for a land developer here in Houston, Texas,  
11 Intercorporation, I was the project architect for them for  
12 interior remodels on one of their high rise residential towers.

13 **Q Okay. Anything else?**

14 A While I was in school I had a variety of secretarial  
15 and other clerical jobs, but, no, that was my first post-  
16 college professional job.

17 **Q And can you please describe your educational**  
18 **experience?**

19 A Bachelor of Science in -- with a concentration in  
20 Architecture from the University of Houston, and I have  
21 approximately 12 hours towards a Master's in Business  
22 Administration from the University of St. Thomas, and I have a  
23 variety of certifications from -- professional certifications  
24 for my area of expertise.

25 **Q Okay. Do you understand why you've been called to be**

1 deposed today?

2 A Yes.

3 Q Okay. What is your understanding of that?

4 A My understanding is that I am representing the city  
5 of Houston as my position as director for the planning  
6 department because some of this work originated from the  
7 planning department.

8 Q Okay. I'd like to introduce, as I guess it would be,  
9 Exhibit C the notice of rule 30B6 deposition of the city of  
10 Houston.

11 A Okay.

12 Q Take a look at that, please.

13 A Okay.

14 Q Do you see it -- do you --

15 A Yes.

16 Q -- see on the -- pages 1 it's a three page document  
17 and there are a list of numbered topics on those three pages --

18 A Mm-hmm.

19 Q Do you understand that you've been designated by your  
20 council to answer questions about the following topics, and I'm  
21 going to list them and after each you can say either yes or no  
22 that you understand --

23 A Okay.

24 Q -- you've been designated. So the first is number 3,  
25 defendant's interpretation and application of the busking

1 cleanliness, litter, that type of thing on that end of the  
2 spectrum would be -- are something that the city cares deeply  
3 about, we care about the way our streets look and whether  
4 somebody's wearing a green outfit versus a red outfit doesn't  
5 matter.

6 Q Okay. And do you think then that there is -- that  
7 having buskers in the city of Houston somehow interferes with  
8 an esthetic concern?

9 A No, I'm not sure I would say that.

10 Q Okay. All right. Is there something about the  
11 theater district that is particularly well suited for avoiding  
12 traffic and pedestrian safety issues?

13 A That is particularly suited -- well, in the theater -  
14 - so the part of the rationale in creating the theater district  
15 was to create a very walkable area where Houstonians could, you  
16 know, enjoy the theater, enjoy a dinner before the theater,  
17 enjoy a very vibrant part of Houston.

18 I mean, we're trying to encourage a vibrancy in the  
19 theater district, and I think that lends itself well to a  
20 busker, but I also think that there -- that it highlights the  
21 need to be cautious about the safety of pedestrians and  
22 automobile traffic throughout that area.

23 Q So if you were creating an area of vibrancy --

24 A Mm-hmm.

25 Q -- would that raise more concerns about pedestrian

1 I have any evidence that -- documents that -- and the answer is  
2 no, but I would say that it's the city of Houston's interest  
3 to, you know, protect our property owners and provide service  
4 to everyone and -- no. I mean, I guess -- okay. So ask the  
5 question again. I think I'm getting way off track --

6 **Q Okay.**

7 A -- looking for circles and there aren't any.

8 **Q Okay.**

9 A So just ask the question again.

10 **Q Okay. Let me try again. What evidence do you have**  
11 **to support the idea that requiring a busker to obtain written**  
12 **permission from an abutting property owner serves the interest**  
13 **of protecting neighboring property owners from loud noises and**  
14 **distractions?**

15 A No, I don't have any evidence that it does that.

16 **Q Okay. Thank you. And then on what basis do you make**  
17 **the claim that there is an interest in protecting the effects**  
18 **on neighboring properties and property owners?**

19 A I think this is a little bit longer answer than what  
20 you want, but I do know that when -- so I work in an office  
21 building and there are often times events in the streets around  
22 me. I'm adjacent to a couple city parks, and it can be very  
23 disruptive to operations when there is this type of noise going  
24 on constantly.

25 Luckily, I'm only close to it on periodic basis's,

1 but if there were a busker who were in front of my office  
2 everyday I think it could be disruptive to my operation, and I  
3 think when the city of Houston and Central Houston initiated  
4 this effort, you know, we were stepping into unknown, you know,  
5 going into -- we didn't have -- we were stepping into the  
6 unknown, we didn't know, you know, what would -- how many  
7 hundreds of people might come out or not and so there was a  
8 concern that if we do this we need to be more protective about  
9 the adjacent property owners.

10                   We need to have a consideration for them as well and  
11                   so it was, you know, an effort for the city to recognize that  
12                   there might be some challenges for property owners created by  
13                   this effort knowing how we dealt with it.

14           Q     Okay. And would it be equally disruptive then if  
15           there were just a loud street performer out there, but they  
16           weren't asking for tips?

17           A     Well, probably yes.

18           Q     Is there a noise ordinance in place in the city of  
19           Houston?

20           A     There is.

21           Q     Does it apply also to the theater district?

22           A     Yes.

23           Q     Okay. Describe how requiring a busker to describe  
24           their performance in advance serves the interest of traffic or  
25           pedestrian safety?

1 IN THE UNITED STATES  
2 DISTRICT COURT FOR THE  
3 SOUTHERN DISTRICT OF TEXAS (HOUSTON DIVISION)  
4  
5 ANTHONY BARILLA  
6 VERSUS CASE NO.: 4:20-CV-00145  
7 CITY OF HOUSTON, TEXAS  
8  
9

10 REPORTER'S CERTIFICATION

11 DEPOSITION OF MARGARET WALLACE BROWN

12 MAY 11, 2022

13  
14 I, ARIA MENDOZA, Court Reporter, hereby certify to the  
15 following:

16 That the witness, MARGARET WALLACE BROWN, was duly sworn by the  
17 officer and that the transcript of the oral deposition is a  
18 true record of the testimony given by the witness;

19 That the deposition transcript was submitted on 26th day of May  
20 2022, to the witness or to the attorney for the witness for  
21 examination, signature and return to NAEGELI DEPOSITION AND  
22 TRIAL by June 15, 2022;

23 That the amount of time used by each party at the deposition is  
24 as follows:

25 Anastasia P. Boden, Esquire - 0 hr 00 min

1 Joshua W. Polk, Esquire - 0 hr 00 min

2 Donna G. Matias, Esquire - 1 hr 32 min

3 Brian A. Amis, Esquire - 0 hr 00 min

4 Daniel Oliver, Esquire - 0 hr 00 min

5 That pursuant to information given to the deposition officer at  
6 the time said testimony was taken, the following includes  
7 counsel for all parties of record:

8

9 Anastasia P. Boden, Esquire - ATTORNEY FOR PLAINTIFF

10 Joshua W. Polk, Esquire - ATTORNEY FOR PLAINTIFF

11 Donna G. Matias, Esquire - ATTORNEY FOR PLAINTIFF

12 Brian A. Amis, Esquire - ATTORNEY FOR DEFENDANT

13 Daniel Oliver, Esquire - ATTORNEY FOR DEFENDANT

14 I further certify that I am neither counsel for, related  
15 to, nor employed by any of the parties or attorneys in the  
16 action in which this proceeding was taken, and further that I  
17 am not financially or otherwise interested in the outcome of  
18 the action.

19 Certified to by me this 26th day of May 2022.

20

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22

23

24 Aria Mendoza, No. 818

25